

JUN 16 1983

NO. **82-6644**
IN THE SUPREME COURT OF THE

UNITED STATES

October Term, 1983
Number 2 CRIM 42073

RICCI E. LORTZ, Appellant

vs.

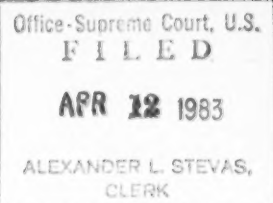
THE PEOPLE OF THE STATE OF CALIFORNIA, Appellee

ON APPEAL FROM THE SUPREME COURT OF
THE STATE OF CALIFORNIA

JURISDICTIONAL STATEMENT

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2 IN THE SUPREME COURT OF THE

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4 October Term, 1983
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6 RICCI E. LORTZ, Appellant

7 vs.

8 THE PEOPLE OF THE STATE OF CALIFORNIA, Appellee

9
10 JURISDICTION

11
12 The grounds on which the Jurisdiction of this
13 Court is invoked are the Fifth and Fourteenth Amendment of
14 the United States Constitution.

15 The nature of the proceeding below and the statute
16 pursuant to which it was brought are §1257(2) of Title 28 of
17 the United States Code.

18 The Judgment sought to be reviewed is dated
19 November 16, 1982. A hearing in the California Supreme
20 Court was denied by order dated January 12, 1983. The
21 Notice of Appeal herein was filed on April 12, 1983 in the
22 Second Appellate District, Court of Appeal, Los Angeles,
23 California, and the Attorney General of California.

24 The jurisdiction of this Court is invoked under
25 Section 1257(2) of Title 28 of the United States Code.

26 The cases which sustain jurisdiction are:

27 Wisconsin v. Yoder, 406 U.S. 205; 92 S. Ct. 1526 (1972)

28 Stanley v. Illinois, 405 U.S. 645; 92 S. Ct. 1208 (1972)

1 Carey v. Population Services International, 431 U.S. 678; 97
2 S. Ct. 2010 (1977)
3 New York ex rel Bryant v. Zimmerman, 278 U.S. 63; 49 S. Ct.
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5 Webb v. Webb, 451 U.S. 493; 101 S. Ct. 1889 (1981)
6 Market St. Railroad v. R.C. of State of California. 65 S.
7 Ct. 770; 324 U.S. 548 (1945)
8 O'Dell et. al. v. Espinoza, 102 S. Ct. 1865; 72 L. Ed. 2d
9 182 (1982).

10 The statute involved is California Penal Code §
11 278.5 (a), West's Annotated Codes, Volume 48, Cumulative
12 Pocket Part, 1983, Page 157. The relevant part of the text
13 is set out in Statement of the Case.

14 All the documents relevant to this brief are
15 included in the Appendix hereto.

16
17 QUESTIONS PRESENTED

18 A. California Penal Code Section 278.5(a) is in
19 violation of the Fifth and Fourteenth Amendment Due Process
20 for potential violators are not placed on notice of what
21 behavior is prohibited, for absent a judicial finding of the
22 custody or visitation decree a lay-person on the street
23 makes the determination of when a violation occurs and
24 whether to proceed with criminal proceeding.

25 B. The wording of Penal Code Section 278.5(a) coupled
26 with its implementation does not place a custodial parent on
27 sufficient notice as to the type of conduct required of him
28 and is therefore vague and void.

1 C. California Penal Code §278.5 (a) is in violation
2 of the Fifth and Fourteenth Amendment Due Process, for its
3 vagueness subjects a potential violator to arbitrary
4 enforcement of the Statute, absent a judicial determination
5 of a custody decree.

6 D. The Appellate Court in its opinion erroneously
7 concluded that it was unnecessary for judicial intervention,
8 for the legislature did not intend it.

9 E. The Appellate Court in its opinion failed to
10 properly address all the legal issues in appellant's opening
11 brief. Specifically Arguments III, IV, and VI in
12 Appellant's Brief, dealing with Due Process.

13
14 STATEMENT OF THE CASE

15
16 RICCI E. LORTZ was convicted of child stealing in
17 the Superior Court, Los Angeles County, California, pursuant
18 to California Penal Code Section 278.5(a) which in pertinent
19 part states:

20 " Every person who in violation of a custody
21 decree takes, retains after the expiration of a
22 visitation period, or conceals the child from his
23 legal custodian, and every person who has custody
24 of a child pursuant to an order, judgment or
25 decree of any court which grants another person
26 the right to custody or visitation of such child
27 with the intent to deprive the other person of
28 such right to custody or visitation shall be
punished by imprisonment in the state prison for a
period of not more than one year...

(Emphasis added)

29 The underlined portion of the Statute is the
30 part which RICCI E. LORTZ was convicted under and which is

1 subject to the current Due Process attack. Appellant's
2 primary contention is that a violation of this portion of
3 Penal Code Section 278.5(a) requires a violation of a
4 custody decree. The Appellate Court in their opinion, 187
5 Cal. Rptr. 89,93, tentatively agrees that "inherent in the
6 custodial parent's concealment of a child with the intent to
7 deprive the non-custodial parent is a violation of the
8 visitation order...", but dismisses the issue for lack of
9 legislative intent by saying, "the legislature did not see
10 fit to make such violation an element of the crime under the
11 second portion of sub-division (a)." This is a complete
12 circumvention of the issues of Due Process as presented by
13 Appellant on his appeal, the issue presented was that the
14 statute on its face was vague and therefore void.
15 (Appellant's Opening Brief)

16 The information charging RICCI with the above
17 crime under Penal Code Section 278.5(a) was filed by the Los
18 Angeles District Attorney on November 25, 1981. Appellant
19 pleaded not guilty and in his defense filed a motion to
20 dismiss and set aside the information pursuant to Penal Code
21 Section 995, claiming lack of probable cause for arrest in
22 that Penal Code Section 278.5(a) and the decree on its face
23 is unconstitutionally vague in that it fails to provide
24 adequate notice.

25 The trial court found Penal Code Section 278.5(a)
26 not to be unconstitutionally vague and subsequently found
27 RICCI guilty. RICCI was sentenced to two years probation.

28 On February 25, 1982, RICCI LORTZ filed a notice

1 of Appeal to the State Appellate Court of California, Second
2 Appellate District, Division One, raising the question of
3 (1) the family law court must decide whether a violation of
4 a family law visitation order has occurred; (2) arrest
5 lacked probable cause for probable cause was in part based
6 on a non-existing restraining order; (3) wording of Penal
7 Code Section 278.5(a) is vague and void; (4) application of
8 Penal Code Section 278.5(a) violates the Fifth and
9 Fourteenth Amendments; (5) Appellant could lawfully leave
10 the State permanently without violating the court order; and
11 (6) the order itself, on its face, is uncertain, hence
12 negating the Mens Rea of the Statute.

13 The Appellate Court upheld the trial court's
14 decision of which the opinion is published in 187 Cal. Rptr.
15 89. A Petition for Rehearing with the Appellate Court was
16 filed and thereafter denied on December 15, 1982.
17 Subsequently, RICCI filed an appeal with the State Supreme
18 Court for review of the Constitutional issues as denied by
19 the trial and appellate courts. The State Supreme Court
20 summarily rejected the appeal on January 12, 1983, hence the
21 appeal to this court of last resort for the resolution of
22 the issues. (See Appendix).

23 24 FACTUAL STATEMENT

25 DONNA CAIN and RICCI lived together for a period
26 of time during which a child was born to them. They
27 continued to co-habitate until the infant child, ROBERT
28 THOMAS LORTZ was about seven (7) months old.

1 Upon separation, a court ordered custody decree
2 was rendered, determining custody and visitation rights of
3 both parents over ROBERT THOMAS LORTZ.

4 The mother, DONNA CAIN claims joint custody as
5 awarded by the court order. RICCI, the father, contends
6 that the order grants him sole and exclusive custody over
7 the child when the order was awarded April 20, 1981, with
8 reasonable visitation reserved to the mother. (See Appendix
9 for Court Order).

10 Based on the order itself and the Whittier Police
11 Child Custody Investigation Report, the child would be
12 placed in custody of the mother, DONNA CAIN only if a
13 condition was complied with. The condition was for DONNA
14 CAIN to find her own place of abode away from her mother and
15 sister. (See Court Order).

16 This was the apparant understanding of the father,
17 RICCI, when the decree was awarded and subsequent thereto.

18 The mother, DONNA CAIN, by agreement between the
19 parties visited and saw the baby on a regular basis until
20 June 16, 1981.

21 Toward the middle of June, 1981, DONNA CAIN became
22 suspicious for IDA LORTZ, the mother of RICCI, with who
23 RICCI was residing, had placed her home up for sale and was
24 intending to move out of state.

25 DONNA CAIN, thereupon placed the residence of the
26 child's grandmother under surveillance and saw the child
27 safely playing in the front yard on June 16, 1981. On June
28 17, 1981, DONNA CAIN attempted to visit the child and

1 discovered that the child accompanied the father on an out
2 of state vacation trip. The visitation agreement has orally
3 made allegedly awarding the mother visitation on each
4 Wednesday for 2 hours and each Saturday for 8 hours with
5 specified hours.

6 Upon discovering the alleged absence of the child,
7 the mother contacted an attorney who in turn notified the
8 police, stating: (1) a violation of the court order by the
9 father had occurred for removing the child from the state;
10 and (2) that specific visitation was awarded the mother.
11 Furthermore, the attending police officer conducting the
12 investigation was erroneously informed about the existance
13 of a restraining order. All the above assertions are wrong
14 and based on the premise of those erroneous assertions and
15 misrepresentation of the police officer and the mother
16 regarding an unreadable copy of the court order. Probable
17 cause was found and an information issued resulting in
18 appellant's arrest and subsequent conviction.

19 As a result, RICCI was exposed to an arrest, and
20 incurred expenses of retaining a lawyer. He voluntarily
21 subjected himself to the laws of California by traveling at
22 his own expense and standing trial. All based upon the
23 interpretation of laypersons of a court custody decree.

24
25 GROUND FOR FEDERAL QUESTION IS SUBSTANTIAL

26
27 This court has long recognized that freedom of
28 personal choice in matter of marriage and family, is one of

1 the liberties protected by the Due Process Clause of the
2 Fourteenth Amendment. Wisconsin v. Yoder, 406 U.S. 205, 231-
3 33, 92 S. Ct. 1526 (1972); Stanley v. Illinois, 405 U.S.
4 645, 651 92 S. Ct. 1208 (1972). Even personal decisions
5 relating to child rearing have been considered by this court
6 as within the zone of Due Process, affording protection
7 against unwarranted interference by the state. Carry v.
8 Population Services International, 431 U.S. 678, 684 97 S.
9 Ct. 2010, 2016 (1977).

10 It is a long settled rule that the jurisdiction of
11 this court can arise only if the record as a whole shows
12 either expressly or by clear implication that the federal
13 claim was adequately presented in state system. New York ex
14 rel Bryant v. Zimmerman, 278 U.S. 63, 67, 49 S. Ct. 61
15 (1928) also cited in Webb v. Webb, 451 U.S. 493, 101 S. Ct.
16 1889 (1981).

17 Additionally principles of comity in federal
18 system require that state courts be afforded an opportunity
19 to perform their duties, which includes responding to
20 attacks on state authority based on federal law, Webb v.
21 Webb, 101 S. Ct. 1893.

22 Litigants who seek to bring cases to the U.S.
23 Supreme Court from state courts must present federal issues
24 first in state court system not only as a matter of comity,
25 but in order to afford the parties opportunity to develop
26 record necessary for adjudicating issue and permit state
27 courts to exercise their authority to construe state
28 statutes so as to avoid or obviate federal constitutional

1 challenges as well as to identify independent and adequate
2 state ground that would pretermitt federal issue PP 1893,
3 1896 101 S. Ct. id.

4 In accordance with state procedure, appellant has
5 brought this case to the state appellate court and the state
6 Supreme Court to which the record can attest to. (See
7 Appendix)

8 At this juncture, Appellant has exhausted all
9 state appellate remedies with the only viable alternative
10 remaining in the U.S. Supreme Court; in this case the court
11 of last resort.

12 A state court judgment to be within appellate
13 jurisdiction of the U.S. Supreme Court must be final in two
14 senses: It must be subject to no further review or
15 correction in any other state tribunal, and must be an
16 effective determination of the litigation and not merely
17 interlocutory or intermediate step therein, it must be the
18 final word of a final court. Market St. Railroad Co. v.
19 Railroad Commission of State of California, 324 U.S. 548 ,
20 65 S. Ct. 770, (1945), cited in O'Dell et. al. v. Espinoza,
21 102 S. Ct. 1865, (1982).

22 ////

23 ////

24 ////

25 ////

26 ////

27 ////

28 ////

CONCLUSION

Jurisdiction as based upon the above authorities is proper for appellant as per the record (see appendix) has exhausted all State remedies.

It is therefore respectfully submitted that the questions presented here are viable and most important for this Court's review.

Dated:

ATTORNEY FOR DEFENDANT-APPELLANT

///

///

///

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APPENDIX

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1
2
3 IN THE SUPREME COURT OF THE STATE OF CALIFORNIA
4

5
6 THE PEOPLE,)

7 Plaintiff and)
8 Respondent,)

9 v.)

10 RICCI E. LORTZ,)

11 Defendant and)
12 Appellant.)
_____)

13 **CLERK'S OFFICE, SUPREME COURT**
14 **4250 STATE BUILDING**

15 **SAN FRANCISCO, CALIFORNIA 94102**

16 **JAN 12 1983**

17 I have this day filed Order _____
18 _____
19 _____

20 **HEARING DENIED**
21 _____
22 _____

23 In re: 2 Crim 42073
24 PEOPLE

25 vs.
26 RICCI E. LORTZ

27 *Respectfully,*

28 *Clerk*

37074-877 9-82 425 * 08P

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION ONE

Defendant and
Appellant.

CLAY ROBBINS, JR. *Class*

Deputy Clerk

George Deukmejian, Attorney General, Robert H. Philibosian, Chief Assistant Attorney General, S. Clark Moore, Assistant Attorney General, Norman H. Sokolow and Gregory W. Alarcon, Deputy Attorneys General, for Plaintiff and Respondent.

Having waived a jury trial and by stipulation submitted the cause on the transcript of the testimony taken at the preliminary hearing, defendant was found guilty of child stealing in violation of section 278.5, subdivision (a), Penal Code, as charged in the information. He appeals from the judgment.

Robert was born to Donna Cain and defendant on August 31, 1979; they lived together until Robert was seven months old; after separation the mother filed a petition in superior court,¹ and an interlocutory judgment giving the parents joint custody of Robert was entered December 5, 1980. On April 20, 1981, the parties personally appeared before Commissioner Ragins of the family law court and pursuant to their oral agreement the interlocutory judgment was modified by order of the court reflected in the minute order of April 20, 1981, as follows: "Custody of the minor child, Robert Thomas Lortz, (born 8-31-79) is awarded to the Respondent [defendant]. The right of reasonable visitation is reserved to Petitioner [mother]. Custody shall change to the Petitioner on 9-1-81 if the Petitioner has a place of

¹ The parties entered into an invalid marriage and apparently Donna Cain filed a petition for dissolution primarily to resolve the issue of custody of Robert and visitation rights.

her own away from her mother and sister. At that time reasonable visitation shall be awarded to the Respondent. Custody shall then change every four months thereafter until further order of the court. [¶] (X) Visitation shall be 1 day per week from 10AM through 7PM, with two day notice required, plus 1 evening per week for two hours." There followed two additional provisions each designated (X) relating to matters not here material. Thereafter as per the April 20, 1981, order the mother saw the baby on a regular basis. Several weeks later defendant and she orally agreed that she would have visitation with Robert every Saturday from 10 a.m. through 7 p.m. and every Wednesday from 5 p.m. through 7 p.m.

The baby lived with defendant and defendant's mother, Mrs. Lortz, at the latter's residence, and the mother usually visited the baby there. She continued to see him regularly until Wednesday, June 17, 1981. On that day, as instructed, the mother went to the residence of defendant's grandmother, Mrs. McCoy, for her regular visitation with Robert but was told by her that the baby was not there and she did not know if he would be back. The day before (June 16, 1981), the mother had found out through defendant's brother who "talked to my sister about

it" that defendant was going to take the baby away; she became concerned, drove past the grandmother's residence and saw her baby in the front yard "but the next day, he [Robert] was gone." Thereafter five or six times the mother called Mrs. Lortz but she "just repeatedly said he wasn't there, the baby wasn't there; they were just gone." The mother was not told where the baby was taken or if he would be returned; she received no communication or telephone call from defendant regarding the baby, and to the time of trial she had not seen Robert. Although defendant returned from Ohio surrendering himself on November 2, 1981, the baby's whereabouts were still unknown to the mother.

According to Mrs. Lortz, defendant and the baby lived with her and they left her home permanently. The preliminary hearing was on November 13, 1981; about two weeks before that Mrs. Lortz received a telephone call from defendant in Ohio and she "guesses" he told her he had Robert with him. Meanwhile an arrest warrant for defendant was issued; on November 2, 1981, he surrendered. On the Friday (Nov. 7, 1981) before the preliminary hearing, Mrs. Lortz went to Ohio and saw the baby there.

Section 278.5, Penal Code in pertinent part

provides: "(a) Every person who in violation of a custody decree takes, retains after the expiration of a visitation period, or conceals the child from his legal custodian, and every person who has custody of a child pursuant to an order, judgment or decree of any court which grants another person rights to custody or visitation of such child, and who detains or conceals such child with the intent to deprive the other person of such right to custody or visitation shall be punished"

A

PROBABLE CAUSE

Three police reports setting forth background information for issuance of the arrest warrant for defendant, obtained at the behest of the mother and Mr. Gordon, her lawyer, were received in evidence as defendant's exhibit B. As a result of the issuance of the warrant, defendant later surrendered. Appellant asserts that Mr. Gordon misrepresented to the police that the custody order provided the child could not be removed from the state without permission of the court, and "tricked" the officer into believing that a violation of the visitation order had occurred, thus, there was no probable cause for

his arrest.

Our examination of the police reports convinces us there was ample probable cause for defendant's arrest (People v. Harris, 15 Cal.3d 384, 389) and that the warrant based thereon was proper, but we deem the validity of defendant's arrest here to be immaterial because no evidence obtained as a result of the arrest was offered or received at trial. (People v. Combes, 56 Cal.2d 135, 146.) Under these circumstances the claimed illegality of his arrest offers appellant no ground on which to attack his conviction. (People v. Marsh, 58 Cal.2d 732, 746-747.) It has long been established that a defendant who has been subjected to illegal arrest should not by virtue of such illegality gain immunity from punishment for the offense for which he was arrested. There is no statutory authorization for reversal on the grounds of illegality of arrest of a defendant and we know of no decision by any court of appellate jurisdiction in this state which holds that "when a defendant is illegally arrested for a public offense the illegality of the arrest permeates subsequent proceedings by which he is formally charged with the offense and tried on the formal charge." (People v. Valenti, 49 Cal.2d 199, 203.)

B

Although stated in varying ways, the remaining five contentions are based upon the same false premise that before a felony child kidnaping charge can be filed under section 278.5, subdivision (a), Penal Code, there must be a judicial finding by the family law court that the custodial parent has violated the custody or visitation order, and a "police officer in the street should not decide the visitation has been violated, in order to file" such a charge.

It is a preposterous argument that all the mother was awarded by the court's order of April 20, 1981, was "reasonable visitation," a term so vague that only a family law court could determine what is "reasonable" thus there could be no violation of the order. Appellant completely ignores the first paragraph (X) of the minute order specifically defining reasonable visitation not only for the mother but for defendant in the event custody of Robert changed to the mother on September 1, 1981. But until such change of custody paragraph (X) clearly refers to the reasonable visitation reserved to the mother

defining it as one day per week from 10 a.m. through 7 p.m. and one evening a week for two hours. Any contention that defendant did not know or understand the meaning of "reasonable visitation" as defined in the minute order is ludicrous when viewed in light of (1) the fact that before Commissioner Ragins made his order on April 20, 1981, defendant and the mother orally agreed to the custody change and the number of days per week and hours of visitation; (2) the presence of both parties in open court at the time the order was made; (3) the plain language of the minute order which incorporated the oral agreement of the parties; (4) defendant's subsequent compliance with the terms of the minute order; (5) defendant's later oral agreement with the mother specifically establishing that the mother's visitation days would be every Saturday (10 a.m. to 7 p.m.) and every Wednesday (5 p.m. to 7 p.m.); and (6) defendant's regular compliance with this agreement until June 17, 1981, when he absconded with Robert. It appears that the only person in this case who claims he does not understand the meaning of the minute order of April 20, 1981, is appellant's counsel. Even defendant did not testify he did not understand the order.

I

Section 278.5, subdivision (a), Penal Code, was enacted in 1976. The purpose of the legislation was to aid California courts in attempting "to protect children from the extralegal hazards of custody disputes" and "reduce the possibility that desperate parents will take the law into their own hands." (Foster and Freed, Child Snatching and Custodial Fights: The Case for the Uniform Child Custody Jurisdiction Act (1977) 28 Hastings L.J. 1011, 1017.) This statute not only provides a better means of locating and returning abducted children to the person or persons entitled to custody (see subd. (b)) but makes the criminal sanctions for conduct proscribed in subdivision (a) more clear. (Domestic Relations (1976) 8 Pacific L.J. 315, 317-318.) The statute was enacted to encourage parents who are unhappy with custody or visitation provisions under existing conditions to return to the civil court to seek judicial clarification or modification of the order, and to discourage them from taking the law into their own hands by concealing the child in a place unknown to the other parent. Here defendant did not seek a modification or clarification of the visitation order if in fact he did not understand it

or was dissatisfied with its provisions, nor did he appear therefrom. Instead he absconded with the baby concealing him from the mother four and one-half months.

We conclude it was not necessary for the mother to first obtain a judicial finding by the family law court that the visitation order had been violated by defendant before a criminal charge could be filed against him. First, section 278.5, subdivision (a), Penal Code, does not provide for such judicial finding and had the Legislature so intended it would have so stated. Second, in that portion of section 278.5, subdivision (a) under which defendant was charged, there is not even a requirement that there be a violation of an order. Defendant, who had legal custody of the baby under the custody decree, was not nor could he be charged under the first portion of section 278.5, subdivision (a) that requires a "violation of custody decree," but under the second part of subdivision (a) which contains no such language. Although it could be argued that inherent in the custodial parent's concealment of a child with the intent to deprive the non-custodial parent of her right of visitation is a violation of the visitation order, the Legislature did not see fit to make such violation an element of the crime

punishable under the 'second portion of subdivision (a). Third, if it were necessary for the noncustodial parent to go through a separate civil proceeding in the family law court to obtain a judicial finding of violation of a visitation order in order to obtain intervention of law enforcement, it would defeat the entire purpose of this special legislation. The delay inherent in the time-consuming procedure of locating the absconding parent and serving him with civil process for a family law court hearing could only encourage him to ignore the process, move the child from place to place and keep one step ahead of the process server. Fourth the pure purpose of the statute is to provide for criminal sanctions for violations of custody and visitation orders. While it also provides for specific relief for the return of the child to the person having lawful charge of him and assessment of the costs incurred therein against any defendant convicted under this section (subd. (b)), the criminal sanctions were intended to be in addition to the civil contempt and modification already provided for under family law.

As stated by the trial court in finding defendant guilty, "It would appear that once the child was taken out of the state and where there is an indication that there

was a deliberate withholding of visitation rights either by absence from the state or by failure to notify of the address, that there is prima facie violation of the statute."

II

Appellant's brief contention that section 278.5, subdivision (a) is rendered "void for vagueness" in that it fails to place the custodial parent on sufficient notice as to the type of conduct required of him and results in allowing lay police officers and combating lawyers rather than the family law court to determine there was a violation of the custody order,² is without merit.

"[A] statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application, violates the first essential

² Again appellant points to asserted vagueness in the minute order of April 20, 1981, this time even questioning whether the language set off by the asterisk at the bottom of the minute order implies some sort of specific visitation. It appears that because there was not sufficient room on the printed form of the minute order for the order of the court modifying the interlocutory judgment, the clerk typed a continuation of the order in the space at the bottom of the printed form, and to indicate that it in fact was a continuation, used the asterisk; and paragraph (X) specifically defines visitation for the noncustodial parent.

of due process of law." (Connally v. General Const. Co., 269 U.S. 385, 391.) However, "[a] statute is fatally vague only when it exposes a potential actor to some risk or detriment without giving him fair warning of the nature of the proscribed conduct." (Rowan v. United States Post Office (1970) 397 U.S. 728, 740 [25 L.Ed.2d 736, 90 S.Ct. 1484].) Defendant knew that the "right of reasonable visitation" reserved to Robert's mother meant she could see the baby on Wednesday evenings for two hours and on Saturdays for nine hours, and knew that by concealing the baby from the mother at a location unknown to her, he was violating her right to visitation. He kept the baby away from the mother's ability to visit him -- at an undisclosed place -- for four and one-half months without communicating with or in any manner advising the mother of Robert's whereabouts and left the baby in Ohio when he returned to California to surrender himself.

III

Also without merit is appellant's contention that the application of section 278.5, subdivision (a) violates his Fifth and Fourteenth Amendment due process right because without a prior judicial finding by the family law

court of a violation of the visitation order the statute fails to incorporate "notions of fair notice or warning of the type of conduct required of [him]."

In Roth v. United States (1957) 354 U.S. 476 [1 L.Ed.2d 1498, 77 S.Ct. 1304] it was argued that an obscenity statute did not provide reasonable ascertainable standards of guilt and therefore violated the constitutional requirements of due process. Said the court at pages 491-492: "This Court, however, has consistently held that lack of precision is not itself offensive to the requirements of due process. ' . . . [T]he Constitution does not require impossible standards'; all that is required is that the language 'conveys sufficiently definite warning as to the proscribed conduct when measured by common understanding and practices. . . .' [Citation.]" For all of the reasons heretofore mentioned, it is difficult to comprehend appellant's argument that he and his counsel believed he was in full compliance with the visitation order. Defendant well knew and understood the provisions of the minute order of April 20, 1981, and regularly complied with them until he took the baby out of the state on June 17. Defendant's absence from the state with the baby for over four months, his failure to notify

the mother of the whereabouts of the baby and the fact he returned to California without him clearly support the conclusion that defendant was on notice of the conduct required by the statute and that he voluntarily chose to violate section 278.5, subdivision (a).

IV

Appellant claims he had a legal right (§ 213, Civ. Code) to permanently take the baby out of state reiterating the argument that if it was unreasonable for him to change his residence then this was for a family law court to decide not the police. Whether defendant had a right to choose the residence of his child is beside the point for the issue is whether he concealed the baby with the intent to deprive the mother of her right to visitation.

V

Finally, appellant argues that the trial court erred in finding that he acted with the specific intent required by section 278.5, subdivision (a) supported only by recitation of part of a lengthy argument made by his counsel to the court below, and a comment by the trial

court. After reviewing the entire record it is clear to us that each judge who handled the case, and everyone else connected with it including defendant understood the order for visitation and had no problem interpreting it; the only one who seems to have had any trouble in this regard is appellant's counsel. The comment of the trial court to which appellant wishes to attach the implication that the court felt the order was unclear, was a comment made after the court sentenced defendant giving him probation. In order to avoid any future violation of probation which defendant might seek to justify on the ground that he did not understand the order, the court suggested that if defendant does not understand the order he had better seek an order "clearly readable by both parties" so there would be no future violation. As to the specific intent to deprive the mother of her right to visitation, the trial court found "from the conduct of the defendant in this case that the element of specific intent is satisfied beyond a reasonable doubt, there being no other satisfactory explanation given." The evidence amply supports such finding. On June 16, 1981, the mother learned defendant intended to take the baby out of the state and not return; on June 17, 1981, when she arrived

for her regular visit with Robert "he was gone"; Mrs. Lortz told her she had packed the baby's things and made a bed for him in the car, defendant was going fishing and she gave him \$100 in case the car broke down; the mother knew that on the previous day defendant had the car repaired. This obviously was a subterfuge used by Mrs. Lortz and defendant to permit defendant to surreptitiously leave the state with the baby without interference. Thereafter Mrs. Lortz only said "they were just gone"; a real estate agent told the mother that the Lortz' house was up for sale and the family had left the state, and it appeared they had moved, a fact later confirmed by police. Actually Mrs. Lortz had not left the state but was not available to the mother. As of November 7, 1981, the baby was in Ohio because Mrs. Lortz went there to visit him, defendant having five days before (Nov. 2), returned to California to surrender himself; he did not bring the baby with him. Defendant took Robert from his place of residence on June 17, 1981, and kept him from the mother for four and one-half months in a place unknown to her without leaving word as to where he had gone, how he could be contacted or for how long he would be away with the baby or whether he would ever return Robert; she received no telephone call

or communication from defendant. Whether defendant took the baby to Ohio on June 17 or later is of little significance because he concealed the child from the mother and detained him at a place beyond her ability to see him; at least part of that time the baby was in Ohio outside of the jurisdiction of the court. Up to the time of trial the mother had not seen the baby and was not told the exact location of the child. We agree with the trial court that defendant's conduct established the specific intent requirement of the statute.

The judgment is affirmed.

CERTIFIED FOR PUBLICATION

LILLIE, Acting P.J.

We concur:

DALSIMER, J.

BYRNE, J.*

*Assigned by the Chairperson of the Judicial Council.

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2
3 IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
4 SECOND APPELLATE DISTRICT
5 DIVISION ONE
6

7 THE PEOPLE,) 2 Crim, No. 42073
8 Plaintiff and)
Respondent,) (Super. Ct. No. A452325)
9 v.)
10 Ricci E. Lortz,)
11 Defendant and)
12 Appellant.)
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18 Los Angeles, Cal. **DEC 15 1982**, 19
19 TITLE { People
20 { Lortz " } No. 42073

21 THE COURT: 3
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23 Petition for rehearing denied.
24
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27 CLAY ROBBINS, Clerk
28

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3 SUPERIOR COURT OF THE STATE OF CALIFORNIA
4 FOR THE COUNTY OF LOS ANGELES
5
6

7 THE PEOPLE OF THE STATE OF)
8 CALIFORNIA,)

9 Plaintiff,)

No. A 452325

10 vs.)

COURT PROCEEDINGS

11 RICCI E. LORTZ,)

12 Defendant.)
13

14 The trial was heard by the Honorable Alfred W.
15 Dibb, Judge, jury trial was waived, at Norwalk, California on
16 Monday, January 18, 1982. The decision of the trial court com-
17 mences on page 18 (Trial Transcript page number) at line 21.
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1 just going over the whole thing twice.

2 Isn't that what we are doing here to some effect
3 to that in a preliminary hearing transcript, and there is no
4 indication or requirement under the law under 278.5(a) that
5 this order first be interpreted by family law court
6 determining that Mr. Lortz, or any other defendant in these
7 matters, was in violation of the order prior to its being filed
8 upon.

9 I think the reason that Miss Kane made a complaint
10 two days after she saw the child was because of her suspicion.
11 I think that the case was not filed by the district attorney's
12 office until 35 days later was probably to enable Mr. Lortz to
13 come up with some kind of an indication of where he was or
14 some arrangement or some reasonable assumption why he took the
15 child out of this state.

16 This was not done. He did not come forward. There
17 was nothing to indicate that he just wasn't specifically
18 hiding the child from the mother.

19 I think that is clearly evident in the case, as I
20 stated.

21 THE COURT: Section 278.5 of the Penal Code is correctly
22 stated by counsel in his Points and Authorities, filed on
23 December 3, in connection with the 995 motion.

24 Every person who in violation of the custody decree
25 and with the intent to deprive the other person of her right
26 to visitation who takes or conceals a child from such other
27 person is punishable by imprisonment in the state prison and
28 it is designated as an alternate felony misdemeanor by

1 statute, punishable by imprisonment in county jail for a
2 period of not more than one year or by imprisonment in the
3 state prison for not more than one year and one day, making it
4 a high misdemeanor or low felony as the case may be.

5 The evidence in this case clearly establishes that
6 on the date alleged, between the dates of June 17, 1981, and
7 July 22, 1981, that the child was taken by the defendant out
8 of the State of California out of the jurisdiction of the
9 court; that at that time there was in full force and effect a
10 right to reasonable visitation to the petitioner and
11 complaining witness in this criminal case, and that by the
12 defendant's conduct, there was a depriving of the petitioner
13 of her right to reasonable visitation as defined in the order,
14 every one day per week from 10:00 a.m. through 7:00 p.m. with
15 a two day notice required, plus one evening per week for two
16 hours.

17 Whether the order is vague or not, it was one that
18 was established by the agreement of the parties before the
19 commissioner in the family law court prior to the time the
20 order was made and was incorporated in the order of
21 April 20, 1981.

22 The purpose of the statute would be defeated if it
23 were necessary to go through two separate court proceedings to
24 obtain intervention by law enforcement agencies of a
25 threatened or attempted violation of the statute and where it
26 was necessary to obtain a warrant to prevent an individual from
27 violating this statute where that is threatened.

28 It would appear that once the child was taken out of

1 the state and where there is an indication that there was a
2 deliberate withholding of visitation rights either by absence
3 from the state or by failure to notify of the address, that
4 there is prima facie violation of the statute.

5 This specific intent required by law is the intent
6 to deprive the other person of the rights granted by the order
7 of the family law court.

8 The court finds from the conduct of the defendant
9 in this case that the element of specific intent is
10 satisfied beyond a reasonable doubt, there being no other
11 satisfactory explanation given.

12 In answer to the indefiniteness of the statute,
13 counsel, that, of course, was taken into account when the
14 court determined the 995 motion, and until there is an
15 interpretation made by the appellate courts of this state,
16 the statute is constitutional per se until ruled otherwise
17 and is definite enough to where it at least covers the type
18 of incident in question here.

19 I find the defendant guilty of the offense charged.

20 The matter will be referred to the county
21 probation officer for report and recommendation presentence
22 and continued for probationary hearing and sentence the 16th
23 of February. The 15th is a legal holiday. February 16 at
24 9:00 a.m.

25 The defendant is to report to the county probation
26 officer and to cooperate with the probation officer as
27 directed by the clerk and to return to court on February 16 at
28 9:00 a.m. without further notice ready for sentence.

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Bail is continued.

(Proceedings were concluded at
11:53 a.m.)

Date: 8-29-82		DEPT. 11	
HONORABLE: ALFRED J. ...		Deputy Clerk	
201		Reporter	
CASE NO	4452323	JUDGE	W. Harlow
	PEOPLE OF THE STATE OF CALIFORNIA	Deputy Sheriff	
	VS	Counsel for People	
CHARGE	61 LORTZ RICCI 3	DEPUTY DISTRICT ATTY	
	207.54 VICT	Counsel for Defendant	T McBride, P.R.
(BOX CHECKED IF ORDER APPLICABLE)			
NATURE OF PROCEEDINGS <i>Pre Motion for Depositions (995)</i>			
31	<input type="checkbox"/>	IS SWORN AS THE ENGLISH	
32	<input type="checkbox"/>	DUE TO CONFLICT OF INTERESTS, PUBLIC DEFENDER RELIEVED PURSUANT TO SECTION 987.2 PENAL CODE	
33	<input type="checkbox"/>	IS APPOINTED	
34	<input type="checkbox"/>	ON PEOPLE'S MOTION, AMENDMENT TO/AMENDED INFORMATION FILED/DEEMED FILED/INFORMATION AMENDED BY INTERLINEATION/AS FOLLOWS	
35	<input type="checkbox"/>	ON MOTION CASE A CONSOLIDATED INTO CASE A	
36	<input type="checkbox"/>	AS COUNT(S) THEREOF SEE CASE A FOR FURTHER PROCEEDINGS	
37	<input checked="" type="checkbox"/>	MOTION PURS. SECT. 995 P.C. <i>Denied</i>	
38	<input type="checkbox"/>	MOTION PURS. SECT. 1538.5 P.C. CALLED FOR HEARING	
39	<input type="checkbox"/>	DEFENDANT ADVISED OF CONSTITUTIONAL RIGHTS AND EFFECT OF PRIOR CONVICTIONS, WAIVES RIGHTS, ADMITS PRIOR(S); NO CAUSE IS CALLED FOR TRIAL	
40	<input type="checkbox"/>	DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY	
41	<input type="checkbox"/>	By stipulation of defendant and all counsel issue is submitted on the testimony contained in the transcript of the proceedings had at the preliminary hearing, subject to this court's rulings, with each side reserving the right to offer additional evidence and an stipulations entered into at the preliminary hearing be deemed entered into in these proceedings. It is further stipulated that all exhibits received or marked for identification at the preliminary hearing are received in evidence and marked for identification in these proceedings, bearing the same number as used in the preliminary hearing, subject to this court's rulings. People's exhibit (Preliminary Transcript) admitted into evidence by reference	
42	<input type="checkbox"/>	Defendant advised and personally waives his right to confrontation of witnesses for the purpose of further cross-examination, and waives privilege against self-incrimination. Defendant advised of possible effects of plea on any alien or citizenship status	
43	<input checked="" type="checkbox"/>	THE COURT STATES IT HAS READ AND CONSIDERED THE TRANSCRIPT OF THE PRELIMINARY HEARING	
44	<input type="checkbox"/>		
45	<input type="checkbox"/>	ALL SIDES REST. COUNSEL WAIVE ARGUMENT ARGUE AND CAUSE IS SUBMITTED	
46	<input type="checkbox"/>	MOTION PURS. SECT. 1538.5 P.C. GRANTED/DENIED/WITHDRAWN/CONTINUED TO	
47	<input type="checkbox"/>	COURT FINDS DEFENDANT NOT GUILTY	
48	<input type="checkbox"/>	COURT FINDS DEFENDANT GUILTY AS CHARGED TO SECT(S) LESSER INCLUDED/RELATED OFFENSE	
49	<input checked="" type="checkbox"/>	PRE-TRIAL CONFERENCE <i>NO</i> OFF CALENDAR <i>CONTINUED</i>	
50	<input type="checkbox"/>	THE COURT, DUE TO CONGESTED CALENDAR, TRIALS TRIAL TO A DATE NOT LATER THAN	
51	<input checked="" type="checkbox"/>	OR TO SUCH EARLIER DATE AS A TRIAL COURT IS AVAILABLE	
52	<input type="checkbox"/>	DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TIME FOR TRIAL	
53	<input type="checkbox"/>	CAUSE TRANSFERRED TO DEPT. FORTHWITH ON AT A.M. FOR	
54	<input checked="" type="checkbox"/>	DEFENDANT WITH(S) INSTRUCTED TO RETURN ON ABOVE DATE	
55	<input type="checkbox"/>	DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT(S) REARRAIGNED	
56	<input type="checkbox"/>	PLEADS GUILTY/NOLO CONTENDERE, WITH CONSENT OF DISTRICT ATTORNEY AND APPROVAL OF COURT, TO VIOLATION OF SECTION(S) LESSER INCLUDED/RELATED OFFENSE	
57	<input type="checkbox"/>	DEFENDANT WAIVES TIME FOR SENTENCE, REFERRED TO PROBATION DEPARTMENT. PROBATION AND SENTENCE HEARING SET AT A.M. IN DEPARTMENT INCLUDING	
58	<input type="checkbox"/>	DISPOSITION OF COUNTS REMAINING	
59	<input type="checkbox"/>	DETERMINATION OF PRIORS ALLEGED/DEGREE/ARMED/USE ALLEGATION	
60	<input type="checkbox"/>	DEFENDANT WAIVES PROBATION REFERRAL REQUESTS IMMEDIATE SENTENCE (SEE SENTENCE BELOW/SEE ATTACHED SHEET)	
61	<input type="checkbox"/>	FURTHER ORDER AS FOLLOWS:	
62	<input type="checkbox"/>	DEFENDANT FAILS TO APPEAR WITH/WITHOUT SUFFICIENT EXCUSE BAIL FORFEITED OR REVOKED	
63	<input type="checkbox"/>	BENCH WARRANT ORDERED ISSUED/AND HELD UNTIL NO BAIL BAIL FIXED AT \$	
64	<input type="checkbox"/>	DEFENDANT APPEARING, BENCH WARRANT ORDERED RECALLED/QUASHED () RECALL NO. WRITTEN () ABSTRACT FILED	
65	<input type="checkbox"/>	UPON PAYMENT OF \$ COSTS BEFORE AND FILING OF REASSUMPTION, ORDER OF FORFEITURE VACATED BAIL REINSTATED	
66	<input type="checkbox"/>	REASSUMPTION FILED COSTS PAID (RECEIPT NO.) FORFEITURE VACATED BAIL REINSTATED	
67	<input type="checkbox"/>	DEFENDANT'S MOTION FOR RELEASE ON O.R./REDUCTION OF BAIL IS GRANTED/DENIED	
68	<input type="checkbox"/>	BAIL RESET AT \$	
69	<input type="checkbox"/>	REMANDED BAIL BAIL EXON BOND NO	
70	<input type="checkbox"/>	RELEASED OR DISCHARGED IN CUSTODY OTHER MATTER	
71	<input checked="" type="checkbox"/>	OR	
72	<input type="checkbox"/>	MINUTE ORDER	
73	<input type="checkbox"/>	MINUTES ENTERED 12-9-81	
74	<input type="checkbox"/>	COUNTY CLERK	
75	<input type="checkbox"/>	3-8	

Date JANUARY 07 1982
 201 HONORABLE ALFRED W. DIEB T. VILGIATE
 JUDGE Deputy Sheriff
 DEPT. S. ROZATTI S. RUNKLE
 Deputy Clerk Reporter

CASE NO. A452325
 PEOPLE OF THE STATE OF CALIFORNIA
 VS
 01 LORTZ RICCI E
 267.5A 01CTS
 CHARGE
 (BOX CHECKED IF ORDER APPLICABLE)

NATURE OF PROCEEDINGS
 31 ☐ ~~TRIAL~~ 4266-02 11-25-81
 32 ☐ IS SWORN AS THE ENGLISH/ INTERPRETER
 33 ☐ DUE TO CONFLICT OF INTERESTS, PUBLIC DEFENDER RELIEVED PURSUANT TO SECTION 987.2 PENAL CODE.
 34 ☐ ON PEOPLE'S MOTION AMENDMENT TO AMENDED INFORMATION FILED/DEEMED FILED/INFORMATION AMENDED BY INTERLINEATION/AS FOLLOWS
 35 ☐ ON MOTION CASE A CONSOLIDATED INTO CASE A
 36 ☐ AS COUNT(S) THEREOF SEE CASE A FOR FURTHER PROCEEDINGS
 37 ☐ MOTION PURS. SECT. 995 P.C. GRANTED/DENIED/WITHDRAWN/CONTINUED TO
 38 ☐ MOTION PURS. SECT. 1538.5 P.C. CALLED FOR HEARING MOTION SUBMITTED PER STIPULATION (NO. 41) BELOW
 39 ☐ DEFENDANT ADVISED OF CONSTITUTIONAL RIGHTS AND EFFECT OF PRIOR CONVICTIONS, WAIVES RIGHTS, ADMITS PRIOR(S) NO.
 40 ☐ CAUSE IS CALLED FOR TRIAL CAUSE SUBMITTED PER STIPULATION (NO. 41) BELOW
 41 ☐ DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY COURT ACCEPTS WAIVER
 42 ☐ By stipulation of defendant and all counsel issue is submitted on the testimony contained in the transcript of the proceedings had at the preliminary hearing, subject to this court's rulings, with each side reserving the right to offer additional evidence and all stipulations entered into at the preliminary hearing be deemed entered into in these proceedings. It is further stipulated that all exhibits received or marked for identification at the preliminary hearing are received in evidence and marked for identification in these proceedings, bearing the same number as used in the preliminary hearing, subject to this court's rulings. People's exhibit (Preliminary Transcript) admitted in evidence by reference.
 43 ☐ Defendant advised and personally waives his right to confrontation of witnesses for the purpose of further cross-examination and waives privilege against self-incrimination. Defendant advised of possible effects of plea on any alien or citizenship status.
 44 ☒ THE COURT STATES IT HAS READ AND CONSIDERED THE TRANSCRIPT OF THE PRELIMINARY HEARING
 45 ☐ ALL SIDES REST. COUNSEL WAIVE ARGUMENT, ARGUE AND CAUSE IS SUBMITTED
 46 ☐ MOTION PURS. SECT. 1538.5 P.C. GRANTED/DENIED/WITHDRAWN/CONTINUED TO
 47 ☐ COURT FINDS DEFENDANT NOT GUILTY
 48 ☐ COURT FINDS DEFENDANT GUILTY AS CHARGED TO SECT(S) IN COUNT(S) LESSER INCLUDED/RELATED OFFENSE
 49 ☐ PRE-TRIAL CONFERENCE HELD/OFF CALENDAR CONTINUED TO
 50 ☒ THE COURT, DUE TO CONGESTED CALENDAR, TRIALS TRIAL TO A DATE NOT LATER THAN 1-11-82
 51 ☐ OR TO SUCH EARLIER DATE AS A TRIAL COURT IS AVAILABLE
 52 ☐ ON MOTION TRIAL IS SET/CONTINUED TO/REMAINS
 53 ☐ AT A.M. IN DEPT. REASON
 54 ☐ DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TIME FOR TRIAL
 55 ☐ CAUSE TRANSFERRED TO DEPT. FORTHWITH ON AT A.M. FOR
 56 ☒ DEFENDANT WITH (S) INSTRUCTED TO RETURN ON ABOVE DATE
 57 ☐ DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT(S) REARRAIGNED
 58 ☐ PLEADS GUILTY NOLO CONTENDERE, WITH CONSENT OF DISTRICT ATTORNEY AND APPROVAL OF COURT, TO VIOLATION OF SECTION(S) IN COUNT(S) LESSER INCLUDED RELATED OFFENSE
 59 ☐ DEFENDANT WAIVES TIME FOR SENTENCE, REFERRED TO PROBATION DEPARTMENT.
 60 ☐ PROBATION AND SENTENCE HEARING SET AT A.M. IN DEPARTMENT, INCLUDING
 61 ☐ DISPOSITION OF COUNTS REMAINING
 62 ☐ DETERMINATION OF PRIORS ALLEGED/DEGREE/ARMED/USE ALLEGATION
 63 ☐ DEFENDANT WAIVES PROBATION REFERRAL REQUESTS IMMEDIATE SENTENCE (SEE SENTENCE BELOW SEE ATTACHED SHEET)
 64 ☐ FURTHER ORDER AS FOLLOWS:
 65 ☐ DEFENDANT FAILS TO APPEAR WITH WITHOUT SUFFICIENT EXCUSE BAIL FORFEITED OR REVOKED
 66 ☐ BENCH WARRANT ORDERED ISSUED AND HELD UNTIL NO BAIL/BAIL FIXED AT \$
 67 ☐ DEFENDANT APPEARING BENCH WARRANT ORDERED RECALLED QUASHED () RECALL NO. WRITTEN () ABSTRACT FILED
 68 ☐ UPON PAYMENT OF \$ COSTS BEFORE AND FILING OF REASSUMPTION, ORDER OF FORFEITING BAIL IS TO BE VACATED AND BAIL REINSTATED
 69 ☐ REASSUMPTION FILED, COSTS PAID (RECEIPT NO.) FORFEITURE VACATED, BAIL REINSTATED
 70 ☐ DEFENDANT'S MOTION FOR RELEASE ON O.R./REDUCTION OF BAIL IS GRANTED/DENIED
 71 ☐ BAIL RESET AT \$

REMANDED BAIL BAIL EXON BOND NO
 RELEASED OR DISCHARGED IN CUSTODY OTHER MATTER

MINUTES ENTERED
 1-7-82
 COUNTY CLERK

Date 1-11-82
Honorable
210
CASE NO.

Alfred H. Webb
T. V. Kight

JUDGE
Deputy Sheriff
(Parties and Counsel checked if present)

Shropshire
F. Veigen

DEPT. 168
Deputy Clerk
Shanklin

CASE NO.

4452325
PEOPLE OF THE STATE OF CALIFORNIA
VS

Counsel for People:
DEPUTY DISTRICT ATTY:

R. Newson

CHARGE

01 Lertz, Ricci E ✓
378.5k) 01ct

Counsel for Defendant: T. McBride, pro

NATURE OF PROCEEDINGS

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REMANDED

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RELEASED

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BAIL

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OR

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BAIL EXON.

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DISCHARGED

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BOND NO.

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IN CUSTODY OTHER MATTER

MINUTES ENTERED

1-11-82

TRL

Date 1-14-82 Alfred H. Klier JUDGE W. S. Smith DEPT. Stg
Honorable T. Yelgato Deputy Sheriff A. Kuncie Deputy Clerk
CASE NO. 206 (Parties and counsel checked if present)
A 452325 PEOPLE OF THE STATE OF CALIFORNIA
VS
01 Lertz, Ricci E Counsel for People: R. Lawson
278.562 01cr DEPUTY DISTRICT ATTORNEY: Thc Brie, Pst
My E 1 Britz
CHARGE (Box checked if order applicable) Counsel for Defendant:
NATURE OF PROCEEDINGS Trial 4/60 OK 11-25-81
31 ☐ 32 ☐ DUE TO CONFLICT OF INTERESTS, PUBLIC DEFENDER RELIEVED. PURSUANT TO SECTION 987.2 PENAL CODE. IS APPOINTED.
33 ☐ ON PEOPLE'S MOTION, AMENDMENT TO/AMENDED INFORMATION FILED/DEEMED FILED/INFORMATION AMENDED BY
INTERLINEATION/AS FOLLOWS:
34 ☐ ON _____ MOTION, CASE A _____ CONSOLIDATED WITH CASE A _____
AS COUNT(S) _____ THEREOF, SEE CASE A _____ FOR FURTHER PROCEEDINGS
35 ☐ MOTION PURS. SECT. 995 P.C. GRANTED/DENIED/WITHDRAWN/CONTINUED TO _____
36 ☐ MOTION PURS. SECT. 1538.5 P.C. CALLED FOR HEARING ☐ MOTION SUBMITTED PER STIPULATION NO. 40 BELOW.
37 ☐ DEFENDANT ADVISED OF CONSTITUTIONAL RIGHTS AND EFFECT OF PRIOR CONVICTIONS. DEFENDANT WAIVES RIGHTS AND
ADmits PRIOR(S) NO _____
38 ☐ CAUSE IS CALLED FOR TRIAL ☐ CAUSE SUBMITTED PER STIPULATION (NO. 40) BELOW.
39 ☐ DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY _____ COURT ACCEPTS WAIVER.
40 ☐ By stipulation of defendant and all counsel issue is submitted on the testimony contained in the transcript of the proceedings had at the
preliminary hearing, subject to this court's rulings, with each side reserving the right to offer additional evidence and all stipulations
entered into at the preliminary hearing be deemed entered into in these proceedings. It is further stipulated that all exhibits received or
marked for identification at the preliminary hearing are received in evidence and marked for identification in these proceedings. (Preliminary Transcript)
admitted into evidence by reference.
41 ☐ Defendant advised and personally waives his right to confrontation of witnesses for the purpose of further cross-examination, and waives
privilege against self-incrimination. Defendant advised of possible effects of plea on any alien or citizenship status.
42 ☐ COURT STATES IT HAS READ AND CONSIDERED TRANSCRIPT OF PRELIMINARY HEARING.
43 ☐ _____
44 ☐ MOTION PURS. SECT. 1538.5 P.C. GRANTED/DENIED/WITHDRAWN/CONTINUED TO _____
45 ☐ ALL SIDES REST. COUNSEL WAIVE ARGUMENT/ARGUE AND CAUSE IS SUBMITTED.
46 ☐ COURT FINDS DEFENDANT NOT GUILTY.
47 ☐ COURT FINDS DEFENDANT GUILTY AS CHARGED TO SECT(S) _____ IN
COUNT(S) _____ ☐ LESSER INCLUDED/RELATED OFFENSE.
48 ☐ PRE TRIAL CONFERENCE HELD/OFF CALENDAR/CONTINUED TO _____
49 ☐ THE COURT, DUE TO CONGESTED CALENDAR, TRIALS TRIAL _____ TO A DATE NOT LATER THAN _____
OR TO SUCH EARLIER DATE AS A TRIAL COURT IS AVAILABLE.
50 ☒ ON Defendant's trial is continued to 1-18-82
AT 9 A.M. IN DEPT. 888 counsel 112 4/60
51 ☒ DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TIME FOR TRIAL
52 ☐ CAUSE TRANSFERRED TO DEPT. _____ ON _____ AT _____ A.M. FOR _____
53 ☒ DEFENDANT WITH LES INSTRUCTED TO RETURN ON ABOVE DATE: _____
54 ☐ DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT(S) _____ REARRAIGNED.
55 ☐ PLEADS GUILTY/HOLD CONTENDERE, WITH CONSENT OF DISTRICT ATTORNEY AND APPROVAL OF COURT, TO VIOLATION
OF SECT(S) _____ TO COUNT(S) _____
☐ LESSER INCLUDED/RELATED OFFENSE
56 ☐ DEFENDANT WAIVES TIME FOR SENTENCE. REFERRED TO PROBATION DEPARTMENT.
PROBATION AND SENTENCE HEARING SET _____ AT _____ A.M. INCLUDING
☐ DISPOSITION OF COUNTS _____ REMAINING
☐ DETERMINATION OF PRIORS ALLEGED/DEGREE/ARMED/USE ALLEGATION.
57 ☐ DEFENDANT WAIVES PROBATION REFERRAL. REQUESTS IMMEDIATE SENTENCE (SEE SENTENCE BELOW/SEE ATTACHED SHEET)
58 ☐ FURTHER ORDER AS FOLLOWS:
59 ☐ DEFENDANT FAILS TO APPEAR WITH/WITHOUT SUFFICIENT EXCUSE. ☐ BAIL FORFEITED ☐ O.R. REVOKED.
60 ☐ BENCH WARRANT ORDERED ISSUED/AND HELD UNTIL _____ NO BAIL/BAIL FIXED AT \$ _____
61 ☐ DEFENDANT APPEARING. BENCH WARRANT ORDERED RECALLED QUASHED. RECALL NO. _____ WRITTEN
62 ☐ UPON PAYMENT OF \$ _____ COSTS BEFORE _____ AND FILING OF REASSUMPTION, ORDER OF
FORFEITING BAIL IS TO BE VACATED AND BAIL REINSTATED.
63 ☐ REASSUMPTION FILED/COSTS PAID (RECEIPT NO. _____) BAIL REINSTATED.
64 ☐ DEFENDANT'S MOTION FOR RELEASE ON O.R./REDUCTION OF BAIL IS GRANTED/DENIED.
65 ☐ BAIL RESET AT \$ _____
☐ REVANDED ☐ BAIL ☐ BAIL EXON. ☐ BOND NO. _____
☐ RELEASED ☒ O.R. ☐ DISCHARGED ☐ IN CUSTODY OTHER MATTER
MINUTES ENTERED
1-14-82
COUNTY CLERK
2 TRL

Date 1-18-82 Defendant N. Kiba JUDGE Shoyan DEPT. HE 2
Honorable: O. Brown Deputy Sheriff A. Kunkle Deputy Clerk App. 17
CASE NO. A452325 (Parties and counsel checked if present)
PEOPLE OF THE STATE OF CALIFORNIA
VS
CHARGE 01 Lertz, Ricci E ✓ Counsel for People: R Dawson
278.5a (01ct) Counsel for Defendant: T McBride, pte ✓
(BOX CHECKED IF ORDER APPLICABLE)
NATURE OF PROCEEDINGS Trial 49/60 OK 11-25-81
31 ☐
32 ☐ DUE TO CONFLICT OF INTERESTS, PUBLIC DEFENDER RELIEVED, PURSUANT TO SECTION 987.2 PENAL CODE.
33 ☐ ON PEOPLE'S MOTION, AMENDMENT TO/AMENDED INFORMATION FILED/DEEMED FILED/INFORMATION AMENDED BY INTERLINEATION/AS FOLLOWS:
34 ☐ ON MOTION, CASE A CONSOLIDATED WITH CASE A AS COUNT(S) THEREOF, SEE CASE A FOR FURTHER PROCEEDINGS
35 ☐ MOTION PURS. SECT. 995 P.C. GRANTED/DENIED/WITHDRAWN/CONTINUED TO
36 ☐ MOTION PURS. SECT. 1538.5 P.C. CALLED FOR HEARING. ☐ MOTION SUBMITTED PER STIPULATION NO. 40 BELOW
37 ☐ DEFENDANT ADVISED OF CONSTITUTIONAL RIGHTS AND EFFECT OF PRIOR CONVICTIONS. DEFENDANT WAIVES RIGHTS AND ADMITS PRIOR(S) NO. ☐ CAUSE SUBMITTED PER STIPULATION (NO. 40) BELOW
38 ☒ CAUSE IS CALLED FOR TRIAL
39 ☒ DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TRIAL BY JURY. COURT ACCEPTS WAIVER.
40 ☒ By stipulation of defendant and all counsel issue is submitted on the testimony contained in the transcript of the proceedings had at the preliminary hearing, subject to this court's rulings, with each side reserving the right to offer additional evidence and all stipulations entered into at the preliminary hearing be deemed entered into in these proceedings. It is further stipulated that all exhibits received or marked for identification at the preliminary hearing are received in evidence and marked for identification in these proceedings, bearing the same number as used in the preliminary hearing, subject to this court's rulings. People's exhibit: (Preliminary Transcript) admitted into evidence by reference.
41 ☒ Defendant advised and personally waives his right to confrontation of witnesses for the purpose of further cross-examination, and waives privilege against self-incrimination. Defendant advised of possible effects of plea on any alien or citizenship status.
42 ☒ COURT STATES IT HAS READ AND CONSIDERED TRANSCRIPT OF PRELIMINARY HEARING
43 ☒ Both sides answer ready. Jury trial waived. For reasons by defense (in fact MEMOS)
44 ☐ MOTION PURS. SECT. 1538.5 P.C. GRANTED/DENIED/WITHDRAWN/CONTINUED TO
45 ☒ ALL SIDES REST. COUNSEL WAIVE ARGUMENT/ARGUE AND CAUSE IS SUBMITTED.
46 ☐ COURT FINDS DEFENDANT NOT GUILTY
47 ☒ COURT FINDS DEFENDANT GUILTY AS CHARGED TO SECT(S) 278.5(a) P.C. IN COUNT(S) I ☐ LESSER INCLUDED/RELATED OFFENSE
48 ☐ PRE TRIAL CONFERENCE HELD/OFF CALENDAR CONTINUED TO
49 ☐ THE COURT, DUE TO CONGESTED CALENDAR, TRIALS TRIAL TO A DATE NOT LATER THAN
50 ☐ ON MOTION, TRIAL IS CONTINUED TO/REMAINS
51 ☐ AT A.M. IN DEPT.
52 ☐ DEFENDANT PERSONALLY AND ALL COUNSEL WAIVE TIME FOR TRIAL.
53 ☒ CAUSE TRANSFERRED TO DEPT. ON AT A.M. FOR
54 ☒ DEFENDANT/ALL COUNSEL INSTRUCTED TO RETURN ON ABOVE DATE.
55 ☐ DEFENDANT PERSONALLY WITHDRAWS PLEA OF NOT GUILTY TO COUNT(S). REARRAIGNED
56 ☐ PLEADS GUILTY/NOLO CONTENDERE, WITH CONSENT OF DISTRICT ATTORNEY AND APPROVAL OF COURT, TO VIOLATION OF SECT(S). TO COUNT(S)
57 ☒ DEFENDANT WAIVES TIME FOR SENTENCE, REFERRED TO PROBATION DEPARTMENT.
58 ☐ PROBATION AND SENTENCE HEARING SET 2-16-82 AT 9 A.M. INCLUDING
☐ DISPOSITION OF COUNTS REMAINING
☐ DETERMINATION OF PRIORS ALLEGED/DEGREE/ARMED/USE ALLEGATION.
59 ☐ DEFENDANT WAIVES PROBATION REFERRAL REQUESTS IMMEDIATE SENTENCE, (SEE SENTENCE BELOW/SEE ATTACHED SHEET)
60 ☒ FURTHER ORDER AS FOLLOWS: Respect Exhibit 1 (Notified Copy of Minute Order dated 1-20-82) is admitted in evidence and ordered placed in the court file.
61 ☐ DEFENDANT FAILS TO APPEAR WITH/WITHOUT SUFFICIENT EXCUSE. ☐ BAIL FORFEITED ☐ OR REVOKED.
62 ☐ BENCH WARRANT ORDERED ISSUED/AND HELD UNTIL NO BAIL/BAIL FIXED AT \$
63 ☐ DEFENDANT APPEARING, BENCH WARRANT ORDERED RECALLED/QUASHED, RECALL NO. WRITTEN:
64 ☐ UPON PAYMENT OF \$ COSTS BEFORE AND FILING OF REASSUMPTION, ORDER OF FORFEITING BAIL IS TO BE VACATED AND BAIL REINSTATED
65 ☐ REASSUMPTION FILED/COSTS PAID (RECEIPT NO. BAIL REINSTATED.
66 ☐ DEFENDANT'S MOTION FOR RELEASE ON O.R./REDUCTION OF BAIL IS GRANTED/DENIED.
67 ☐ BAIL RESET AT \$
☐ REMANDED ☐ BAIL ☐ BAIL EXON. ☐ BOND NO.
☐ RELEASED ☒ O.R. ☐ DISCHARGED ☐ IN CUSTODY OTHER MATTER
MINUTES ENTERED 1-18-82 TRI/MOT 2
COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DEPT.

Date: APR 23 1981

HONORABLE

JUDGE

W. J. JENKINS

DEPUTY CLERK

HONORABLE

LEE R. RAGINS

JUDGE PRO TEM

13

J. PINARD

Deputy Sheriff

R. RAGINS

Reporter

(Parties and counsel checked if present)

2pm

IN RE the marriage of
CARY, MARIA ELEEN

Petitioner

Counsel for
Petitioner

V. GORDON

AND
LORTZ, ROBERT

Respondent

Counsel for
Respondent

J. T. JENKINS

NATURE OF PROCEEDINGS: ☐ PETITIONER ☒ RESPONDENT OSC in re: MODIFICATION OF:

☐ ORDER OF ☒ INTERLOCUTORY JUDGMENT entered on 12-5-80 in Book 5524, page 300

☒ Matter transferred from Dept. is called for hearing.

☒ It is stipulated that Commissioner LEE RAGINS may here this matter as a Judge Pro Tempore, and that he or any commissioner may hear any other proceeding subject to withdrawal.

☐ Off calendar—no appearance/request of PETNR/RESP/COURT

☐ Petitioner is sworn and testifies.

☐ Respondent is sworn and testifies.

☐ The matter is continued to _____ in Dept. _____ at _____

☐ PETNR/RESP to give notice ☐ Notice waived

☐ The order to show cause in re modification is denied.

☒ The ☐ Order ☒ Interlocutory Judgment is modified in the following respect:

Custody of the minor child, Robert Thomas Lortz, (born 8-31-79) is awarded to the Respondent. The right of reasonable visitation is reserved to Petitioner. Custody shall change to the Petitioner on 9-1-81 if the Petitioner has a place of her own away from her mother and sister. *

☐ Petitioner/Respondent is ordered to pay to the custodial parent for the support and maintenance of the minor child(ren) the sum of \$ _____ per child, a total of \$ _____ payable at the rate of \$ _____ per week ☐ biweekly ☐ per month ☐ semi-monthly on the _____ of each _____, commencing _____

☐ Petitioner/Respondent is ordered to pay to counsel for _____ as his/her contributive share of attorney fees the sum of \$ _____, plus costs of \$ _____, a total of \$ _____ payable \$ _____ per month on the _____ of each month commencing _____

☒ The court makes its order pursuant to stipulation recited in open court this date as reflected in the notes of the court reporter. Counsel for PETITIONER to prepare an order in accordance therewith to be approved by opposing counsel.

☒ Parties referred to Conciliation Court.

☐ Other

* At that time reasonable visitation shall be awarded to the Respondent. Custody shall then change every four months, thereafter until further order of the court.

(X) Visitation shall be 1 day per week from 10AM through 7PM, with two day notice required, plus 1 evening per week for two hours.

(X) Payment of the bill for the Child Custody Investigation (\$316.29) and attorney fees reserved til time of trial.

(X) Court's exhibit 1 (Child Custody Investigation Report) is received in evidence, ordered sealed, and not destroyed.

TYPE OF HEARING Trial
CASE NO. 1003321
EXH. NO. 1
ADMITTED IN EVIDENCE
DATE: 1-18-82
John J. Corcoran, COUNTY CLERK
BY: [Signature] DEPUTY

MINUTES ENTERED
COUNTY CLERK

WHITTIER POLICE DEPARTMENT—1976

7315 South Painter Avenue

Whittier, California 90602

RELATED OFFENSES

BR NO

CASE NO

81-15455

REFER BR NO.

1 CODE SECTION—CRIMINAL ONLY 278.5 P. C.	2 TYPE OF REPORT VIOLATION OF CUSTODY DECREE	3 CLASSIFICATION INTERSTATE FLIGHT
4 DATE TIME OCCURRED DAY 6/17/81 TUESDAY	5 DATE/TIME REPORTED 6/18/81 1705	6 LOCATION OF OCCURRENCE 10730 Bona Vista, Whittier
7 VICTIM'S ACTIVITY With Suspect	8 MOTIVE OR PROPERTY TAKEN 20 Month Old Child	9 ESTIMATED LOSS
10 BUREAU OR UNITS NOTIFIED NONE	11 WEAPON/FORCE USED	12 VEH (CIRCLE): <input type="radio"/> V YR/MKE/COLOR/LICE KARMAN GHIA PRIMER GRY NFD

PRINCIPAL SUBJECT—CODE (BOX 14, 24, 34)		V—VICTIM RP—REPORTING PARTY		W—WITNESS DC—DISCOVERED CRIME		X—MORE NAMES IN NARR.	
13 NAME—LAST, FIRST, MIDDLE (FIRM IF BUS.) LORTZ, ROBERT THOMAS		14 CODE V		15 RESIDENCE ADDRESS 10730 Bona Vista, Whittier 90605		16 RES. PHONE NONE	
17 OCCUPATION	18 RACE-SEX MWJ	19 AGE 20 MO.	20 D O B 8/31/79	21 BUSINESS ADDRESS		22 BUS. PHONE	
23 NAME—LAST, FIRST, MIDDLE CAIN, DONNA EILEEN		24 CODE RP		25 RESIDENCE ADDRESS 6340 Pierce Ave., Whittier 90601		26 RES. PHONE NONE	
27 OCCUPATION Assembly	28 RACE-SEX FW	29 AGE 17	30 D O B 7/7/63	31 BUSINESS ADDRESS 12430 Whittier Blvd., Whittier		32 BUS. PHONE 698-1278	
33 NAME—LAST, FIRST, MIDDLE		34 CODE		35 RESIDENCE ADDRESS		36 RES. PHONE	
37 OCCUPATION	38 RACE-SEX	39 AGE	40 D O B	41 BUSINESS ADDRESS		42 BUS. PHONE	
43 SUSPECT NO. 1 (LAST, FIRST, MIDDLE) LORTZ, RICCI E.		44 RACE-SEX MNA	45 AGE 22	46 HT. 5-11	47 WT. 135	48 HAIR Blu	49 EYES Blu
50 ID NO. OR DOB 10/3/58		51 ARREST YES <input type="checkbox"/> NO <input type="checkbox"/>					
52 ADDRESS, CLOTHING AND OTHER IDENTIFYING MARKS OR CHARACTERISTICS 10730 Bona Vista, Whittier CDL# N6235309 Bln. beard and mustache.							

NARRATIVE

I was detailed to the law offices of Vade Gordon, Attorney at Law, 13006 Philadelphia, Whittier Suite #404. At that location I contacted Mr. Gordon and his client, RP Donna Cain. Mr. Gordon at this time showed me the child custody investigation report, CASE#CF5726 in which a minute order had been signed by Judge Lee Ragins of Dept. W, Southeast District Superior Court giving the suspect four months custody of the child starting 4/20/81. Conditions of order were simply that the suspect Ricci Lortz would have custody for four months during which time the mother, Donna Cain would have weekend visitation plus one day visitation a week. In September 1981 the process was to be reversed with the mother having custody for four months and the father having visitation rights. The order declared that the child would not be removed from the State of California without permission of the court. *not*

On Wednesday, 6/17/81 Donna Cain contacted the mother of the suspect. Ida Lou Lortz, 10730 Bona Vista, Whittier told her that her son, the suspect, and the minor child were "going fishing for the day". She stated that she had packed the child's clothes, gave her son \$100.00, and made a bed in the back of the vehicle for the child to sleep. She also stated that she gave her son a sleeping bag so he could sleep outside of the car. At this time Mrs. Lortz also told Cain that she was planning on moving from California on Friday, 6/19/81 to Ohio. Cain asked Lortz how come she did not receive the child on Wednesday as it had been preplanned and she simply stated that she did not know, except that her son had decided to take him fishing. Cain was then told by Rocci Lortz, MW, 23 who resides with his brother at the Bona Vista address that

REPORTING OFFICERS		SUPR. APPROVAL		TYPED BY		DATE AND TIME	
COPIES TO							
<input checked="" type="checkbox"/> DETECTIVE	<input type="checkbox"/> DIST. ATTY.						
<input type="checkbox"/> PATROL	<input checked="" type="checkbox"/> CH						
<input type="checkbox"/> ADM. DIV.	<input type="checkbox"/> C.O.P.						
OTHER							
WPD 402 350 (REV 11/75)							

WHITTIER POLICE DEPARTMENT - 1976
7315 South Painter Avenue
Whittier, California 90602

6/18/81 1705

CONTINUATION SHEET

2

PAGE NO

81-15455

70 CODE SECTION

71 CRIME

72 CLASSIFICATION

MPT, DIST.

73 VICTIM'S NAME - LAST, FIRST, MIDDLE (FIRM IF BUS)

74 ADDRESS

RESIDENCE

BUSINESS

75 PHONE

his brother in fact was taking the child out of state and that he did not plan on returning to California. Cain said that she then checked with Ida Lortz again and determined that she in fact had packed up the residence in preparation of moving. *How?*

Cain stated that she believes that Ricci Lortz had taken her minor child to Kingman, Arizona and from that point will eventually drive back to Ohio to whatever location his mother moves to in that state.

June
Cain's attorney Vade Gordon, stated that on Friday, 6/19/81 he is going to appear in Dept. W Southeast Superior Court in Los Angeles County and advise the court that Ricci Lortz is in violation of the minute order on CASE# CF5726 signed by Judge Ragins on 4/20/81.

ATTACHMENTS

1. (1) Copy of Child Investigation CASE# CF5726.
2. (1) Photograph of Minor Child, Robert Lortz.
3. (1) Photograph of Suspect, Ricci Lortz.

REPORTING OFFICERS		#051		SUPER APPROVAL		TYPED BY		DATE AND TIME		ROUTED BY	
Cpl. A. L. Beck						#114		6/18/81 1952			
FURTHER ACTION	<input type="checkbox"/> YES	COPIES TO	<input type="checkbox"/>	DETECTIVE	<input type="checkbox"/>	GII					
	<input type="checkbox"/> NO			JUVENILE	<input type="checkbox"/>	PATROL					
				DIST ATTNY	<input type="checkbox"/>	OTHER					
				SO/PO	<input type="checkbox"/>	OTHER					
							DIST.	INDEX	FILE		DATE

WHITTIER POLICE DEPARTMENT - 1976
7315 South Fainter Avenue
Whittier, California 90602

DATE AND TIME OF CALL
7/6/81, 1630hrs.

81-15455

CONTINUATION SHEET

PAGE NO. _____

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70 CODE SECTION

278.5 PC

71 CRIME

Violation of custody decree

72 CLASSIFICATION

Interstate flight

73 DIST.

73 VICTIM'S NAME - LAST, FIRST, MIDDLE (PRINT IF BUS)

LORTZ, Robert Thomas

74 ADDRESS & RESIDENCE

10730 Bonavista

BUSINESS

75 PHONE

944-5073

On 7/2/81, at approximately 1500hrs., I interviewed Donna Cain at the Whittier Police Department regarding this case. I asked Donna if she recalled the last time she had a visitation with her child Robert Lortz, and she advised me that it was on Saturday, 6/13/81. I asked her how long that period of visitation lasted, and she told me it was nine hours. Donna further advised that she learned a couple of days later that the child's father, Ricci Lortz, was planning on leaving the state and she then set up a surveillance in an attempt to locate, and keep tabs on the child. Donna said that on Tuesday, 6/16/81, at approximately 1930hrs., she went to the residence of Laura McCoy (the child's great grandmother), at 4663 Main Ave. in Baldwin Park. She advised me that she saw her child playing in the front yard at that location at that date and time.

Donna said that when she went to Mrs. McCoy's residence again on 6/17/81, Wednesday, for her normal visit, she was advised that Ricci had taken the child. I asked her if this visitation was set up with Ricci Lortz a head of time, and she told me that it was. I asked her what type of arrangements were made, and she told me that she made standing arrangements with Ricci Lortz to pick up the child every Wednesday at approximately 1700hrs., and then return the child after visitation at approximately 1900hrs. She then contacted the child's grandmother, Ida Lortz (Ricci Lortz's mother), and she was advised at that time by Mrs. Lortz that Ricci had taken the child and gone fishing. Mrs. Lortz further advised Donna that she had given Ricci a \$100.00 in case the car broke down, however, Donna said that she didn't think that that made sense, because it was her understanding that Ricci Lortz had just gotten his car out of the garage the previous day.

Donna later attempted to contact Ida Lortz on 6/27/81, in an attempt to locate Ricci and her son Robert, however, instead of Ida Lortz answering the phone, Donna said a realtor answered. Donna advised that she didn't get the realtor's name, however, he told her that he was showing the Lortz house as an open house, that the house was up for sale, and that the Lortz family had left the state. Donna said that she later went over to the house to see if they were there and it appeared to her that they had moved. Donna said that she had no prior notice from Ricci Lortz of any attempt to leave, or to cancel the visitation arrangements that day, and that she has had no subsequent calls or letters from Ricci advising her of his current location, and any provision for visitation of the child. I asked Donna what attempts she has made since then to locate Ricci and or the child, and she advised me that she had turned it over to her attorney for him to handle to conclusion. Donna also added that she was planning on going to Kingman Arizona, in an attempt to locate him. During our conversation, Donna also told me that she had talked to Ricci Lortz's brother, Rocci Lortz, subsequent to learning Ricci broken the visitation plan, and that Rocci told her that Ricci had left the state. Donna further advised that Rocci claims to be in love with her sister Debra Emmetts.

I went to the Lortz residence at 10730 Bonavista, and I found that it was indeed up for sale.

REPORTING OFFICERS		SUPER APPROVAL		TYPED BY		DATE AND TIME		ROUTED BY	
FURTHER ACTION	<input type="checkbox"/> YES <input type="checkbox"/> NO	COPIES TO	<input type="checkbox"/> DETECTIVE <input type="checkbox"/> CIVIL <input type="checkbox"/> JUVENILE <input type="checkbox"/> PATROL <input type="checkbox"/> DIST ATTNY <input type="checkbox"/> OTHER <input type="checkbox"/> SO/PO <input type="checkbox"/> OTHER						
				DIST 7K 7/6	INDEX	FILE		DATE	

WHITTIER POLICE DEPARTMENT - 1976
7315 South Painter Avenue
Whittier, California 90602

CONTINUATION SHEET

PAGE NO. 2

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70 CODE SECTION	71 CRIME	72 CLASSIFICATION	NPT. DIST.
73 VICTIM'S NAME - LAST, FIRST, MIDDLE (PRINT IF BUS.)		74 ADDRESS RESIDENCE BUSINESS	75 PHONE

listed with Nordine Reality, phone # 944-9774. I noticed that there was a reality lock box on the front door of the house, and I knocked on the door in an attempt to determine if anybody was home. There was no response to my knock. I looked in through the window and I could see boxes inside the house with property packed in the boxes as if the people were in fact preparing to move. I contacted Nordine Reality this morning, and spoke with Mr. Nordine regarding the Lortz family. He advised me that the house is up for sale, however, it has not been sold yet. He also advised me that he spoke with Mrs. Lortz last week, and to the best of his knowledge, she has not left the state, and will not do so until after the sale of her home. Mr. Nordine advised me that he believed she had one adult son living with her, however, he has not seen more than one at any one time. He told me that he could not provide me with any further information regarding their background. I asked him to relay a message to Mrs. Lortz that I wished to speak with her, and he promised that he would. I attempted to locate a phone number for Ricci Lortz's grandmother, Lora McCoy, in Baldwin Park, however, I have been unable to locate any such phone number.

Case to be submitted to the D.A.

REPORTING OFFICERS Det. G. Reader #071		SUPER APPROVAL		TYPED BY 184	DATE AND TIME 7/6/81 1910hrs.	ROUTED BY
FURTHER ACTION	<input type="checkbox"/> YES <input type="checkbox"/> NO	COPIES TO	<input type="checkbox"/> DETECTIVE <input type="checkbox"/> CIV <input type="checkbox"/> JUVENILE <input type="checkbox"/> PATROL <input type="checkbox"/> DIST ATTNY <input type="checkbox"/> OTHER <input type="checkbox"/> SO/PO <input type="checkbox"/> OTHER	DISB	INDEX	FILE
						DATE

WHITTIER POLICE DEPARTMENT - 1976
7315 South Painter Avenue
Whittier, California 90602

SUPPLEMENTAL
REPORT ☒
DATE AND TIME OF SUPPL.
7-16-81 10:16
CONTINUATION SHEET
PAGE NO. 1

OFFER BR NO

89 CASE NO

10
81-15455

70 CODE SECTION

275.5 PC

71 CRIME

VIOLATION OF CUSTODY

72 CLASSIFICATION

INTERSTATE FLIGHT

RPT. DIST.

73 VICTIM'S NAME - LAST, FIRST, MIDDLE (FIRM IF BUS)

LOTTZ, PERIT THOMAS

74 ADDRESS ☒ RESIDENCE

15700 ... VICTIM

☐ BUSINESS

75 PHONE

I CONTACTED THE R/P'S ATTORNEY, VADE GORDON, AND ASKED HIM FOR A CERTIFIED COPY OF THE CASE DOCKET TO VERIFY THAT NO ADDITIONAL ORDERS HAVE BEEN ISSUED ALTERING OR COUNTERMANDING THE ONE HE PROVIDED ME.

MR GORDON ADVISED THAT THERE IS NO DOCKET IN A CASE SUCH AS THIS, BUT A SERIES OF MINUTE ORDERS WHICH REFLECT THE PROGRESS OF THE CASE. MR GORDON ADVISED IT WOULD BE DIFFICULT TO OBTAIN ALL THE MINUTE ORDERS AND ASSURED ME THAT THE ORDER HE GAVE ME IS THE CURRENT, AND MOST RECENT CUSTODY ORDER.

IT SHOULD BE NOTED THAT I AGAIN ATTEMPTED TO CONTACT SOMEONE AT THE LOTTZ RESIDENCE LAST WEEK WITH NEGATIVE RESULTS. I LEFT MY CARD AND A NOTE REQUESTING THEY CONTACT ME A S A P, BUT HAVE RECEIVED NO RETURN COMMUNICATION.

CASE TO BE SUBMITTED TO DA.

REPORTING OFFICER

G. KENDER 4071

SUPR. APPROVAL

TYPED BY

DATE AND TIME

ROUTED BY

FURTHER ACTION

☐ YES

☐ NO

COPIES TO

☐ DETECTIVE

☐ CII

☐ JUVENILE

☐ PATROL

☐ DIST. ATTY

☐ OTHER

☐ SO/PO

☐ OTHER

DIST.

INDEX

FILE

DATE

7-17-81 1630 HRS

ON 7-17-81 AT APPROX 1630 HRS
I CONTACTED THE ATTORNEY OF RICCI LORTZ,
JAMES JENKINS, AND HE ADVISED ME THAT
LORTZ WAS IN COURT ON 4-20-81 BEFORE
JUDGE PROTENT LEE RAGINS WHEN THIS CUSTODY
ORDER WAS MADE.

L. Reedy #071
DETECTIVE, WHITTIER PD